

NORTH DAKOTA STATE PLUMBING BOARD
MEETING MINUTES
October 28, 2014

The North Dakota State Plumbing Board met on October 28, 2014, at 1:00 p.m., at the North Dakota State Environmental Training Center, 2639 East Main Avenue, Bismarck, ND, President Lon Drevecky presided.

Board members present were Jason Dirk – Journeyman Plumber, Lon Drevecky – President/Mechanical Engineer, Heather Jones – Consumer Member, Wayne Kern – Vice President/State Health Department and Howard Wrigley – Master Plumber.

Staff members present were Brent Beechie – Secretary/Chief Inspector, Kimberley Tomanek – Business Manager, Scott Samuelson – Plumbing Inspector and Laurie Walcker – Administrative Assistant.

Others present were Lon Lessard – North Dakota State School of Science, Matthew Marciniak – IAPMO, Leonard Schwindt – City of Dickinson, Jon Benz - City of Mandan, Steve Monroe – City of Grand Forks, Darrell Zaback and Jim Geer – City of Minot, Mike Smith – City of Bismarck, Troy Bormann – City of Fargo, Mike Birrenkott – Industrial Contractors, Inc., John Parizek – Minnesota State Plumbing Board and Dave Romine - NDAPHMC.

MINUTES

President Drevecky called for the consideration of the minutes of the June 17, 2014 meeting.

MOTION: Howard Wrigley made a motion to approve the minutes of the June 17, 2014 meeting as received. Jason Dirk seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

YEAR TO DATE FINANCIAL STATEMENTS AND BUDGET

President Drevecky called on Ms. Tomanek to review the Financial Statements and Fiscal Year to Date Budget.

Ms. Tomanek presented the Financial Statements and Fiscal Year to Date Budget.

MOTION: Howard Wrigley made a motion to approve the Financial Statements as presented. Jason Dirk seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

NEW BUSINESS

Affordable Care Act

President Drevecky called on Ms. Tomanek to explain the changes with the Affordable Care Act.

Ms. Tomanek indicated that the board office received a letter dated September 2, 2014 from the North Dakota Office of Management and Budget in regards to the Affordable Care Act Requirements. She went on to say that during the 2013 Legislative Session, action was taken to bring North Dakota's state employee health insurance plans into compliance with the Affordable Care Act. These new provisions became effective January 1, 2015. Ms. Tomanek stated that this new legislation at the state level, as well as the requirements of the Affordable Care Act, need to be implemented at the employer level in the state by the end of year so the North Dakota State Plumbing Board is not exposed to any federal penalties. She indicated that she attended meeting and learned that all full-time employees, any part-time employee who works no more than 1560 hours per year or 130 hours per month and all contract workers must be offered health insurance. Ms. Tomanek ended by saying that currently all of the full-time employees take advantage of the health insurance and the one part-time employee, Jack Skaley has only worked approximately 740 hours to date (652 as of 9/30/14). The only concern would be the contract worker, Al McFarlane, but he has agreed to sign a waiver stating he was offered insurance and refused coverage. A waiver of coverage is acceptable.

Plumbing Inspector Reorganization

President Drevecky called on Mr. Beechie to discuss the plumbing inspector reorganization.

Mr. Beechie explained that Mr. Skaley intends on resigning his position as the part-time plumbing inspector as of approximately March 2015. He also mentioned that now would be a good opportunity to discuss the option of making this a full-time position.

President Drevecky inquired how hiring a full-time inspector would affect the budget, coverage and service.

Mr. Beechie responded by saying that if the Board could find a part-time person, that would be willing to work more hours during the busier months, then it could be done. He added that it would work with a full-time position too, but the inspector districts would likely change a little bit. Mr. Beechie commented that it is hard to foresee how long the construction throughout the state will last. He said he is torn between the two

options because the need is currently there, but he does not know how long it will be there.

Mr. Dirk questioned whether or not the position could be filled if it was part-time.

Mr. Beechie said he thinks it could be filled if it were a part-time position or a full-time position. He suggested that the position be advertised as full-time, but could be decreased to a part-time position depending on the applicants. Mr. Beechie added that either way, it is a tough decision.

Ms. Jones asked about the financial impact of making this position full-time.

Mr. Beechie said the salary range per hour would be about the same, but the benefit package would be an additional \$19,000 per year.

President Drevecky stated that because the number of hours that Mr. Skaley is currently working, it warrants making the position full-time and in doing so, would create better service and coverage.

Mr. Beechie responded by saying that adding a full-time position would allow for better code enforcement as well.

Mr. Kern indicated that he would be in favor of making the position full-time.

MOTION: Heather Jones made a motion to hire a full-time Plumbing Inspector for the western region of the state. Jason Dirk seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

Underground Stop and Waste Valves

President Drevecky called on Mr. Beechie to talk about Underground Stop and Waste Valves.

Mr. Beechie said that Mr. Kern requested that this agenda item be added, because he is getting a lot of questions from municipal facilities about stop and waste valves, in particular yard hydrants.

Mr. Kern explained that the number of requests to allow frost free hydrants as part of municipal water systems or public water system work has increased, but the North Dakota State Department of Health design standards for public systems do not cover the service line beyond the main. He has made it clear that according to the plumbing code, that any stop and waste valve in any application is not allowed.

Mr. Beechie said the 2009 Uniform Plumbing Code states that "underground stop and waste valves are prohibited." He added that South Dakota amended the code slightly and added, "unless there is a known ground water table it is at least ten feet away from any known sewer pipe or contaminate and also for seasonal use only." Mr. Beechie commented that if a change like that is made, then it would basically cover the State parks. He stated that that RV parks are no longer for seasonal use in western North Dakota.

Mr. Kern indicated that the requests are happening where there are rural water systems where there is year round occupancy and not just seasonal.

The board members, staff and meeting attendees discussed different scenarios in regards unground stop and waste valves. The general consensus of the Board is to add this item to the agenda of a future meeting, if needed.

Administrative Rules – 62-03.1-03-04 Location of a Sewer System Table

President Drevecky called on Mr. Beechie to review Chapter 62-03.1-03-04 Location of a Sewer System.

Mr. Beechie explained that there are a few typos within the table that is located in the North Dakota Board Laws, Rules and Plumbing Installation Standards, that should look identical to the table that is located in the Sewer and Water Code Book. He said the errors are with the less than (<) and greater than (>) symbols and an extra added line. Mr. Beechie concluded by saying that board staff will ask Legislative Council if the typos can just be changed, or if the change has to be made through the Administrative Rule amendment process.

Future Legislation – Inspections by Political Subdivisions

President Drevecky called on Mr. Beechie to explain the proposed future legislation.

Mr. Beechie said that he is concerned about political subdivisions taking away jurisdiction from the North Dakota State Plumbing Board because of the way it is written in in the law. Chapter 43-18-11.4 Plumbing Inspectors – License required – Exception reads "A person employed by the state board of plumbing or a political subdivision to inspect plumbing installations must be licensed as a journeyman or master plumber. This section does not apply to an inspector employed by the board of plumbing or a political subdivision as of July 2, 1889". Mr. Beechie indicated that he would like to protect the plumbing inspectors and the North Dakota State Plumbing Board and change the verbiage to say that cities and municipalities are the only entities that can make provisions for their own inspections and eliminate political subdivisions.

President Drevecky cautioned opening up the law unless there is something of great substance that should be changed. He also mentioned that counties might now want to relinquish their jurisdiction.

Mr. Beechie suggested discussing this item with Edward Erickson for his opinion and guidance on how to approach legislation.

Mr. Kern indicated that he agrees with President Drevecky.

Ms. Jones questioned the budget impact and risk if jurisdiction does get taken from the North Dakota State Plumbing Board. She said that the dollar amount of impact should be considered when testifying to the legislature along with the reasoning of why the Board should remain self-sustaining.

Mr. Beechie explained that the North Dakota State Plumbing Board is autonomous and does not receive any funding or appropriations from the legislature. He went on to say that the only income the Board generates is from license fees, plumbing installation certificates, inspections and the grant from the State Health Department, so it is tough to operate efficiently and hire more staff, only to get jurisdiction taken away because the inspectors would be left with nothing to do.

MOTION: Jason Dirk made a motion to table the discussion about inspections by political subdivisions until more information can be gathered and a special meeting will be held on November 20, 2014. Wayne Kern seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Jones, Kern and Wrigley voting in favor.

Secretary's note: A special meeting was never held because this item will not be pursued at this time.

At 2:12 p.m., the Board recessed for a short break.

At 2:22 p.m., the Board reconvened.

OLD BUSINESS

Radon Gas and Sump Pumps

President Drevecky called on Mr. Beechie to provide an update on the radon gas and sump pumps.

Mr. Beechie said that while requiring sumps to be sealed is not being enforced in North Dakota, it is probably being looked into more. He stated that South Dakota operates the same way and if sumps are being inspected, it is by the building officials or city

inspectors. Enforcement is included in Appendix F of the International Residential Code on Radon Gas and should be discussed amongst the North Dakota Building Officials Association and the Building Code Review Committee. Mr. Beechie said that he will follow up with the North Dakota Building Officials Association and the Building Code Review Committee to make sure this topic gets on the agendas.

Non-Compliant Plumbers

President Drevecky called on Mr. Beechie to talk about non-compliant plumbers.

Mr. Beechie presented the current form, Plumbing Inspection Report, which is used when there is a non-compliant plumber. He commented that the same protocol is followed when there is an issue, and that each issue will be documented by the above mentioned report and prosecuted through the County State's Attorney's offices. Mr. Beechie commented that every case is so different and the best approach is to handle it on a case by case basis.

Reciprocity of Minnesota

President Drevecky called on Mr. Beechie to discuss reciprocity between North Dakota and Minnesota.

Mr. Beechie introduced Mr. John Parizek, the Chairman for the Minnesota State Plumbing Board. He explained that North Dakota offers four hours every other year and Minnesota is requiring sixteen hours every other year. Mr. Beechie went on to say that things have been on hold regarding reciprocity and continuing education with Minnesota, but that staff would like to see reciprocity and continuing education stay the same as it has been.

Mr. Parizek stated that the Minnesota State Plumbing Board would also like to maintain reciprocity with North Dakota. He explained that the requirement of sixteen hours is because the Department of Labor and Industry asked the Board to model it after continuing education for electricians. Mr. Parizek said it is a difficult situation and the Minnesota State Plumbing Board does not have any issues with the initial license through reciprocity and North Dakota's continuing education counting towards Minnesota's requirement for continuing education. He indicated that he is hopeful that some sort of agreement can be reached about continuing education in the near future. Mr. Parizek added that a decision will be made after all the information is reviewed by the Minnesota State Plumbing Board's attorneys. The attorneys are also researching the legality of making exceptions for different states. He also mentioned that Minnesota is should be a Uniform Plumbing Code state by the end of 2015, just like North Dakota, South Dakota, Montana and Iowa. Mr. Parizek hopes that a consensus can be reached between all of the states in regards to continuing education. He commented that PHCC has a five state conference scheduled for February 25-27, 2015 in Brooklyn

Center, MN and that would be a good opportunity to discuss continuing education with the other states.

President Drevecky asked how the license renewals for the North Dakota plumbers that hold Minnesota plumbing licenses are being handled in Minnesota.

Mr. Parizek responded by saying that North Dakota plumbers must complete the required Minnesota continuing education hours in order to renew their Minnesota license. He said that it has caught everyone off guard and maybe the requirements should have been extended.

After some discussion about the Minnesota laws and rules and how Minnesota State Plumbing Board operates, the general consensus of the North Dakota State Plumbing Board is to have Mr. Beechie try and schedule a meeting with individuals from the different states at the PHCC Conference in February.

President Drevecky thanked Mr. Parizek for attending the meeting.

Heather Jones left the meeting at 3:10 p.m.

Administrative Rules

President Drevecky called on Mr. Beechie to discuss possible amendments to the administrative rules.

Mr. Beechie said that he would like to amend Chapter 62-03.1-02-02 of the administrative rules to require dwelling units to have sewer and water, by adopting the fixture count table from Section R306 Sanitation of the International Residential Code. He explained that it is the code that requires water, plumbing fixtures and proper sewer for one and two-family dwellings and by doing this, it would alleviate any issues in the future with situations like what happened with the properties in Leith, ND.

Mr. Beechie stated that he would like to amend Chapter 62-03.1-03-01 to remove the North Dakota State Plumbing Board from having any administrative authority relating to septic tanks and drain fields, because the North Dakota State Plumbing Board does not license, regulate or inspect anything dealing with septic tanks and drain fields.

Mr. Kern expressed his apprehension that if the North Dakota State Plumbing Board is removed, then the State Health Department first on the list and the State Health Department does not regulate septic tanks and drain fields either. He then questioned the reasoning is behind removing the North Dakota State Plumbing Board as having administrative authority.

Mr. Beechie responded that the North Dakota State Plumbing Board does not oversee anything dealing with septic tanks and drain fields and does not want to be liable for something that the Board does not have any control over.

President Drevecky inquired if the Board is removed as having authority, can the definition still remain in Chapter 62.

Mr. Beechie said that upon approval from the Board, he will check with the Attorney General's office about whether or not the definition can remain in Chapter 62 if the North Dakota State Plumbing Board is removed from having administrative authority.

Mr. Beechie indicated that he would like to discuss bringing back the interpretive rules in full or in part. The interpretive rules were removed at the request of Heath Districts and the State Health Department because they were thought to be redundant. It appears that some are not redundant and Mr. Beechie would like to know if they should be added again.

There was a brief discussion on whether or not the Interpretive Rules should be re-added. It was the consensus of the Board that Mr. Beechie work with Mr. Kern to work together to review process the Rules.

MOTION: Wayne Kern made a motion to start the process of amending the Chapter 62-03.1-02-02 and Chapter 62-03.1-03-01. Howard Wrigley seconded the motion and it was unanimously approved with board members Dirk, Drevecky, Kern and Wrigley voting in favor.

Secretary's note: The Interpretive Rules review and proposed amendment will not be pursued at this time.

REPORTS

Website/Content Management System

President Drevecky called on Ms. Tomanek to provide an update about the Website/Content Management System.

Ms. Tomanek indicated that the website is up and running and getting some very good traffic. In particular, under the "Contact Us" section, there is an option to send a message to the board office and she received several of these messages every week with questions and comments.

Ms. Tomanek stated that unfortunately the Content Management System is not operational yet. She went on to say that it has been a very intensive and time consuming project that has turned out to be a much larger undertaking than everyone

initially thought it was going to be. Ms. Tomanek explained that there are still some details that need to be sorted out, but the project is near completion. She said that right now would not be a good time to go live because the plumber renewal season starts in a couple weeks and the current database is updated daily. Ms. Tomanek added that as soon as all the details are figured out and TodayMade has completed making some changes, she will show the inspectors how to use the new system. Ms. Tomanek was happy to report that the board office will start taking debit and credit cards starting in November and code books will be able to be purchased from the website.

Wayne Kern left the meeting at 4:00 p.m.

Inspectors from Local Jurisdictions

President Drevecky called on attendees, Mr. Samuelson – North Dakota State Plumbing Board, Leonard Schwindt – City of Dickinson, Darrell Zaback and Jim Geer – City of Minot, Jon Benz – City of Mandan, Steve Monroe – City of Grand Forks, Mike Smith – City of Bismarck, Troy Bormann – City of Fargo and Lon Lessard – North Dakota State College of Science to report on plumbing issues and work within their jurisdictions. President Drevecky thanked the attendees.

ANNOUNCEMENTS

David Romine with the North Dakota Association of Plumbing Heating and Mechanical Contractors announced that the Minnesota Plumbing-Heating-Cooling Contractors Association 5-State Conference will be held in Brooklyn Center, MN in February 2015.

ADJOURNMENT

MOTION: Howard Wrigley made a motion to adjourn the meeting. Jason Dirk seconded the motion and it was unanimously approved with board members Dirk, Drevecky and Wrigley voting in favor.

The meeting adjourned at 4:10 p.m., to meet again in March 2015.

Attest Kimberly Tomarek

Tom E Drevecky
President

D. Wayne Kent
Vice-President

Howard Wrigley
Master Plumber

[Signature]
Journeyman Plumber

[Signature]
Consumer Member